

UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF NORTH CAROLINA

U.S.A. vs. Barry Merritt Jr.

Docket No. 5:09-CR-262-1FL

Petition for Action on Supervised Release

COMES NOW Maurice J. Foy, Senior U.S. Probation Officer of the court, presenting a petition for modification of the Judgment and Commitment Order of Barry Merritt Jr., who, upon an earlier plea of guilty to Possession With the Intent to Distribute More Than 5 Grams of Cocaine Base (Crack) and a Quantity of Marijuana and Aiding and Abetting, 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2 , was sentenced by the Honorable Louise W. Flanagan, U.S. District Judge, on June 9, 2010, to the custody of the Bureau of Prisons for a term of 84 months. It was further ordered that upon release from imprisonment the defendant be placed on supervised release for a period of 60 months.

Barry Merritt Jr. was released from custody on October 30, 2015, at which time the term of supervised release commenced.

On April 26, 2017, the court was notified that the defendant was charged in Wake County, North Carolina with Driving While Impaired on April 20, 2017. This case is scheduled for court on February 26, 2018.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS:

On January 25, 2018, in Wake County, North Carolina, the defendant was charged with Driving While Impaired; Driving While License Revoked; Failure to Maintain Lane Control and Cancelled, Revoked, Suspended, Certification or Tag. On February 9, 2018, the defendant plead guilty to Level 2 Driving While Impaired and all other charges were dismissed. He was sentenced to 12 months custody, suspended, 18 months of supervision and court cost of \$1,447.50. As a special condition of state probation, he was also ordered to serve 30 days in custody. As a result of this non-compliance, the probation office is recommending that he be allowed to participate in substance abuse treatment, abstain from the consumption of any alcohol use, complete 20 hours of community service and abide by all the terms and conditions of the Remote Alcohol Monitoring Program for a period up to 90 days. The defendant signed a Waiver of Hearing agreeing to the proposed modification of supervision.

PRAYING THAT THE COURT WILL ORDER that supervised release be modified as follows:

1. The defendant shall abstain from the use of any alcoholic beverages, shall not associate with individuals consuming alcoholic beverages, shall not frequent business establishments whose primary product to the consumer is alcoholic beverages, and shall not use any medication containing alcohol without the permission of the probation office or a prescription from a licensed physician.
2. The defendant shall perform 20 hours of community service as directed by the probation office and if referred for placement and monitoring by the State of North Carolina, pay the required fee.
3. The defendant shall abide by all terms and conditions of the Remote Alcohol Monitoring Program, as directed by the probation officer, for a period not to exceed 60 consecutive days.

Except as herein modified, the judgment shall remain in full force and effect.

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Reviewed and approved,


I declare under penalty of perjury that the foregoing
is true and correct.

/s/ Jeffrey L. Keller
Jeffrey L. Keller
Supervising U.S. Probation Officer

/s/ Maurice J. Foy
Maurice J. Foy
Senior U.S. Probation Officer
310 New Bern Avenue, Room 610
Raleigh, NC 27601-1441
Phone: 919-861-8678
Executed On: February 15, 2018

ORDER OF THE COURT

Considered and ordered this 15th day of February, 2018, and ordered filed and
made a part of the records in the above case.



Louise W. Flanagan
U.S. District Judge